IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No 3l42 of l994

Mr Subhash Narayan Turbaikar.Petitioner
vs
The Tahasildar/Executive
Magistrate, Thane and ors..Respondents

Mr. Killedar for petitioner

Mr.R.S.Apte for respondent nos.l and 2
Mr C.R.Sonawane AGP for State
Mr D.A.Dube for respondent no.4

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 23.6.2005

P.C:

. Heard advocates.

2 The learned counsel appearing for the petitioner inter alia contended that the Caste Scrutiny Committee, which passed the impugned order on 29.6.l994 had no competence and jurisdiction to verify the caste claim of the petitioner being an employee of the Defence Establishment at Vikhroli Mumbai. In support, the learned counsel for the petitioner placed reliance on the Government Resolution dated 23.l.l985 under which the concerned Caste Scrutiny Committee was constituted and the Division Bench judgement of this court in

Sudhakar Shankar Gawli vs State of Maharashtra and ors, l998(2) Mh L J 97.

3. The Government Resolution dated 2l.l.l985 reads thus:

> Government of Maharashtra Tribal Development Department Resolution no. CBC l684/28l8(29l)/XI Mantralaya, Annexe Bombay 32 Dated the 23rd January l985
>
> Read l) Govt Circular SWD/Cultural Affairs
>
> Sports and Tourism Department No CBC l630/l996l/DV Dt 5.5.l980
>
> ii) Govt Corrigendum SWD No CBC l980/l996l/DIV Dt 3.6.l980
>
> iii) Govt letter SWD No CBC/l680/ 55396(499) D V dt 24.2.l98l.
>
> Resolution : On creation of the new Department i.e. Tribal Development Department from lst May l983, the question of appointing a separate Scrutiny Committee

for verification of Caste Certificates of Scheduled Tribes was under consideration of Government. Government is now pleased to direct that in partial modification of the orders quoted in the preamble the following Scrutiny Committee should be appointed with immediate effect for verification of Caste Certificates of Scheduled Tribes:

l) Director, Tribal Research and Training Institute, Maharashtra State Pune- Chairman

2) Chief Research Officer,Tribal Research and Training Institute Pune- Member

3) This Scrutiny Committee will do the following work:

i) Verify the caste certificates of Scheduled Tribes students seeking admissions in different educational institutions at different levels.

ii) Verify the Caste Certificates of Scheduled Tribes recommended by the Maharshtra Public Service Commission and

different selection Boards appointed by the Government for the seats reserved for Scheduled Tribes.

iii) Verify the Caste Certificates of the Govt Servants according to the requests or complaints made by concerned departments/ office.

iv) Any work entrusted by Govt in respect of scrutiny of caste certificates of Scheduled Tribes.

By order and in the name of Governor of Maharashtra M P Damble Under Secretary of Govt".

4. In Sudhakar Shankar Gawli (supra) the Division Bench of this court was seized of the question whether the caste verification committee constituted under the aforesaid government resolution had jurisdiction to verify the caste claim of the employees of State Road Transport Corporation. The paragraph 3 of the report in Sudhakar Shankar Gawli reads thus:

"3. With the assistance of the learned counsel for the parties we have perused the said GR dated 23rd January l985.The GR has specified the matters which could be referred to the Scrutiny Committee. The caste claim of the employee of the Transport Corporation not being a Government employee is not covered within the jurisdiction as specified in the GR . Clause (iv) of para 2 of the GR refers, "Any work entrusted by Government in respect of Scrutiny of Caste Certificate of Scheduled Tribes." We, therefore, repeatedly asked the learned Government Pleader Mr. Sonawane as to whether any such resolution is passed by the Government entrusting the work of caste claims of the employees other than the Government. Mr Sonawane appearing for the State and Mr. Hegde for the Corporation could not point out any such authorisation in favour of the Scrutiny Committee as envisaged under the said Clause. In view of this we hold that the Scrutiny Committee had no authority to verify the caste claim of the petitioner being an employee of State Road Transport Corporation. The impugned order dated

24.3.l994 is quashed and set aside. Rule made absolute in terms of above".

5. In the light of the above decision of the Division Bench it is clear that the Caste Scrutiny Committee constituted under the said G.R. date 23.l.l985 had no competence to verify the caste claim of the defence employee. The impugned order is therefore without justification. However, the matter does not end here as the petitioner got his employment as belonging to Scheduled Tribe (Mahadeo Koli). His caste has to be verified by the competent Committee constituted for the purpose in accordance with the provisions of The Maharashtra Scheudled Castes, Scheduled Tribes,De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Bankward Category(Regulation of Issuance of And Verification) Caste Certificate, Act 2000 . We accordingly disposed of the petition with the following order:

i) The order passed by the Scrutiny Committee dated 29.6.l994 is quashed and set aside.

ii) The respondent no.3 is directed to get back the petitioner’s caste certificate from the record of the respondent no.2 and send the same now for verification to the Committee for scrutiny and verification of tribes claim freshly constituted under the provisions of The Maharashtra Scheudled Castes, Scheduled Tribes,De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Bankward Category(Regulation of Issuance of And Verification) Caste Certificate, Act 2000.

iii) The Caste Scrutiny Committee is directed to consider the matter afresh concerning petitioners caste claim in accordance with law upon the petitioners caste certificate being forwarded by respondent no. 2 for verification.

Petition is accordingly disposed of with no order as to costs.